

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

United States of America

Plaintiff,

v.

Case No. 16-20414

Hon. Sean F. Cox

D-1 Demarco Tempo

Defendants.

ORDER DENYING TEMPO'S MOTION FOR JUDGMENT OF ACQUITTAL

This matter is currently before the Court on Defendant Demarco Tempo's Motion for Judgment of Acquittal, pursuant to FED. R. CRIM. P. 29. (ECF No. 660). The Court previously reserved its decision on this motion and ordered briefing from the parties. (ECF No. 657). Because the Court concludes that oral argument will not aid the decisional process, the Court will decide the motion on the parties' briefing. E.D. Mich. LCrR 12.1(a); LR 7.1(f)(2).

In considering a motion for judgment of acquittal under Rule 29, this Court must determine whether, after reviewing the evidence in the light most favorable to the prosecution, any rational trier of fact could find the elements of the crime beyond a reasonable doubt. *United States v. Abner*, 35 F.3d 251, 253 (6th Cir. 1994); *United States v. Meyer*, 359 F.3d 820, 826 (6th Cir. 1979). In doing so, the Court does not weigh the evidence, consider the credibility of witnesses, or substitute its judgment for that of the jury. *Id.*

The Sixth Circuit has explained that a defendant claiming insufficiency of the evidence "bears a very heavy burden." *Abner*, 35 F.3d at 253. On review, all evidence must be construed in a manner most favorable to the Government. Moreover, circumstantial evidence alone is sufficient to sustain a conviction. *Id.*

Having considered Tempo's motion, and viewing all of the evidence presented at trial in the light most favorable to the prosecution, the Court concludes that a rational trier of fact could find the essential elements of each of the crimes charged, beyond a reasonable doubt.

Accordingly, **IT IS ORDERED** that the motion for judgment of acquittal is **DENIED**.

IT IS SO ORDERED.

s/Sean F. Cox

Sean F. Cox
United States District Judge

Dated: April 17, 2019